

IN THE UNITED STATES BANKRUPTCY COURT FOR THE  
WESTERN DISTRICT OF PENNSYLVANIA

IN RE:	)	
	)	
DAVID WILLIAM EWING,	)	Bankruptcy No. 19-24296-GLT
	)	
Debtor.	)	Chapter 13
*****	)	
COMMUNITY BANK, N.A.,	)	Hearing Date and Time:
	)	March 10, 2020, 10:00 A.M.
Movant,	)	
	)	
Vs.	)	
	)	
DAVID WILLIAM EWING,	)	
	)	
Respondent.	)	

**RESPONSE TO MOTION FOR RELIEF FROM STAY**

AND NOW comes David William Ewing, Debtor, by and through his attorney, P.  
William Bercik, Esquire, and files his RESPONSE TO MOTION FOR RELIEF FROM STAY,  
as follows:

1. Admitted.
2. Admitted that Respondent has a mailing address at 4323 Ludwick Street, Pittsburgh,  
PA 15217.
3. Admitted.
4. Admitted.
5. Admitted that the Bankruptcy Code provides for Relief from Stay in appropriate  
circumstances.
6. Admitted.
7. Admitted that a balance is owed. The amount of such balance is not known.

8. Admitted.
9. Denied. To the contrary, Debtor has made a plan payment and will continue to make plan payments. Debtor's plan provides that Movant will be paid both the current monthly amount due and the full amount of the arrears.
10. Admitted.
11. Admitted.
12. Admitted.
13. Admitted.
14. Admitted that Movant is in possession of an appraisal as indicated. Denied that the valuation of the property is accurate.
15. Denied that the appraisal is accurate. Chautauqua County values the property at \$309,882. *See Exhibit A.*
16. Admitted.
17. Admitted, though Debtor filed Amended Schedules I and J in the prior case indicating that his income was \$5798.40 per month and that his expenses were \$5,605.14 per month. *See Exhibit B.*
18. Admitted.
19. Admitted.
20. Admitted.
21. Admitted.
22. Denied. To the contrary, Debtor has provided two leases, one with actual signatures. The tenant for the first lease has moved out and Respondent has procured a new

- tenant. The lease has been provided to Movant. The tenant in the second apartment has also moved out. Respondent is hoping to sign a lease with a new tenant soon.
23. Admitted.
24. Admitted that Debtor paid \$600.00 into the plan as of the date Movant filed its Motion for Relief from Stay. However, as of the date of this Response, Debtor has paid \$3,300.00.
25. Denied. The Debtor should have sufficient income to support his Chapter 13 Plan through his employment, rental income, and income from boarding horses.
26. Admitted that Chautauqua County has filed a Proof of Claim for \$60,610.84. Debtor's Plan has been confirmed on an interim basis, with the full amount of the Chautauqua County claim controlling.
27. Denied. It remains to be determined whether the plan as amended is not feasible.
28. Respondent incorporates paragraphs 1 through 27 by reference.
29. Admitted, though it is denied that Movant lacks adequate protection.
30. No response is required.
31. No response is required.
32. Denied. To the contrary, the property is substantially more valuable than \$230,000. Movant is adequately protected by payments being made and to be made through the plan. Moreover, the Debtor's plan has been confirmed on an interim basis. Debtor is required to pay the mortgage through his divorce settlement agreement. *See Exhibit C.*
33. Denied.
34. No response is required.

35. No response is required.

36. Denied. To the contrary, the property is worth considerably more than \$230,000.00.

37. Admitted.

38. Admitted that there may be little or no equity in the property, but Movant is adequately protected by the value of the property and Debtor's continued plan payments.

39. Admitted that Debtor does not reside on the property, but a dependent of the Debtor (his former wife) does reside on the property, and Debtor is required under his property settlement agreement to make the mortgage payments.

WHEREFORE, Debtor requests that this Honorable Court enter an Order denying the Motion for Relief from Stay filed by Community Bank, N.A.

Respectfully submitted,

/s/ P. William Bercik  
P. William Bercik  
Attorney for Debtor

Pa. ID No. 59174

210 Grant Street, Suite 200  
Pittsburgh, PA 15219

(412) 471-2587